

# EXHIBIT 5

Page 1

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE WESTERN DISTRICT OF TEXAS  
3                   WACO DIVISION

4                   WSOU INVESTMENTS, LLC,         )  
5                   D/B/A BRAZOS LICENSING         )  
6                   AND DEVELOPMENT,                 ) CIVIL ACTION  
7                   Plaintiff,                         ) 6:20-cv-00981-ADA  
8   )  
9                   VS.                                 )  
10   )  
11                   CANON, INC.,                         )  
12                   Defendant                         )

13                   ORAL AND VIDEOTAPED DEPOSITION OF JAMES SMITH

14                   NOVEMBER 11, 2021

15                   ORAL DEPOSITION OF JAMES SMITH, produced as a  
16                   witness at the instance of the Plaintiff and duly sworn,  
17                   was taken in the above-styled and numbered cause on  
18                   Thursday, November 11, 2021, from 8:04 a.m. to  
19                   4:27 p.m., before JANALYN ELKINS, CSR, in and for the  
20                   State of Texas, reported by computerized stenotype  
21                   machine, in Austin, Texas, pursuant to the Federal Rules  
22                   of Civil Procedure and the Texas First Emergency Order  
23                   Regarding the COVID-19 State of Disaster, and any  
24                   provisions stated on the record herein.

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1 Q. (BY MS. IVAN) And did you specifically search  
2 for Del Rio?

3 MR. MARTINELLI: Objection, form.

4 THE WITNESS: No.

5 Q. (BY MS. IVAN) And did you specifically search  
6 for El Paso?

7 MR. MARTINELLI: Objection, form.

8 THE WITNESS: No.

9 Q. (BY MS. IVAN) And did you specifically search  
10 for Midland-Odessa?

11 MR. MARTINELLI: Objection, form.

12 THE WITNESS: No.

13 Q. (BY MS. IVAN) And did you specifically search  
14 for Pecos?

15 MR. MARTINELLI: Objection, form.

16 THE WITNESS: No.

17 Q. (BY MS. IVAN) And did you specifically search  
18 for Waco?

19 MR. MARTINELLI: Objection, form.

20 THE WITNESS: No.

21 Q. (BY MS. IVAN) You currently work for Canon,  
22 U.S.A., correct?

23 A. Yes.

24 Q. What is your current title?

25 A. Senior director, shared service accounting.

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1 Q. And where is your current office?

2 A. In Melville, New York.

3 Q. And where do you reside?

4 A. I reside in Bethpage, New York.

5 Q. What are your current responsibilities as a  
6 senior director of shared services accounting?

7 A. My responsibilities include general accounting,  
8 accounts payable, and accounts receivable.

9 Q. Who do you report to?

10 A. I report to the CFO.

11 Q. And the CFO is who?

12 A. Josh Shimono.

13 Q. Isn't -- isn't Canon, U.S.A. CEO Kazuto Ogawa?

14 MR. MARTINELLI: Objection, form.

15 THE WITNESS: Could you repeat that?

16 Q. (BY MS. IVAN) Canon, U.S.A. CEO is Kazuto  
17 Ogawa to K-A-Z-U-T-O O-G-A-W-A.

18 A. That is correct.

19 Q. And who reports to you?

20 A. I have accounting managers and I have AP  
21 managers and directors report to me.

22 Q. And do any of the people to who you report in  
23 turn report to anyone at Canon, Inc.?

24 A. No.

25 Q. So let's go back to your -- to your

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1 communications with Kazuto Ogawa who is the CEO. You  
2 just testified that you report to him. Do you have  
3 direct communications with him?

4 MR. MARTINELLI: Objection, form.

5 Misstates his testimony. I think -- I think just to  
6 clarify, he said CFO and you switched to CEO.

7 MS. IVAN: Okay. I apologize if that's the  
8 case.

9 Q. (BY MS. IVAN) So just to, you know, clarify  
10 this for the record, the CEO of Canon, U.S.A. is Kazuto  
11 Ogawa. And you do not report to Mr. Ogawa. You report  
12 to the CFO?

13 A. Correct.

14 Q. Okay. Thank you. And who's the CFO?

15 A. Josh Shimono.

16 Q. Can you spell the name?

17 A. S-H-I-M-O-N-O.

18 Q. First name is Josh, you said -- you say?

19 A. Well, that's the name he goes by. The expats  
20 in our company typically take on a U.S. name.

21 Q. And do you know his Japanese name by any  
22 chance?

23 A. It's -- I would have to look it up to get it  
24 correct.

25 Q. Okay. You don't have to get it now. You can

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1 tell me during the break.

2 A. Okay.

3 Q. Thank you.

4 Are you in direct communication at anyone  
5 with Canon, Inc. in Japan?

6 MR. MARTINELLI: Objection, form.

7 THE WITNESS: Could you clarify that  
8 question?

9 Q. (BY MS. IVAN) Do you communicate with anyone  
10 in Canon, Inc. -- at Canon, Inc. in Japan?

11 MR. MARTINELLI: Objection, form.

12 THE WITNESS: I do not as a normal course  
13 of business.

14 Q. (BY MS. IVAN) You do that? I'm sorry. I  
15 didn't hear.

16 A. I do not communicate with anyone at Canon, Inc.  
17 as a normal course of business.

18 Q. Aside from the normal course of business, do  
19 you communicate with anyone at Canon, Inc. in Japan?

20 MR. MARTINELLI: Objection, form.

21 THE WITNESS: It will happen from time to  
22 time. So, yes.

23 Q. (BY MS. IVAN) Okay. So you're here today to  
24 testify on behalf of Canon, Inc., but you're not in  
25 direct communication with anyone at Canon, Inc. in

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1 Japan; is that correct?

2 MR. MARTINELLI: Objection, form.

3 THE WITNESS: As a normal course of  
4 business, I do not communicate with individuals at  
5 Canon, Inc.

6 Q. So when you were preparing for today's  
7 deposition, you did not talk to anyone at Canon, Inc. in  
8 Japan regarding today's deposition?

9 A. So, yes. One of my meetings was to meet with  
10 Seiichi Hamada to go through the deposition topics.

11 Q. Okay. Can you spell the name?

12 A. S-E-I-I-C-H-I, H-A-M-A-D-A.

13 Q. And what is his position at the company?

14 A. He is the senior general manager of  
15 intellectual property transactions and enforcement  
16 center of corporate intellectual property and legal  
17 headquarters at Canon, Inc.

18 Q. How frequently do you talk to Mr. Hamada?

19 A. Just this one time.

20 Q. Is it fair to say that you never spoke with him  
21 before this deposition?

22 MR. MARTINELLI: Objection, form.

23 THE WITNESS: That is correct.

24 Q. (BY MS. IVAN) Can you identify the people at  
25 Canon, Inc. with whom you are having communications?

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1           Q. So if you need to get an answer to this  
2 question, who will you ask in your company?

3           A. Probably would go to our -- either our legal  
4 team or I would go to our purchasing groups.

5           Q. Let's go back to Exhibit 6, which is the Canon,  
6 Inc. Form 20-F. Can you please go to page 28 out of  
7 155? 28 out of 155.

8           A. Yeah. Table of contents if I'm on the right  
9 page is at the upper left.

10          Q. Yes. It says, "C Organizational Structure. Do  
11 you see that?

12          A. I do.

13          Q. So it says, "Canon, U.S.A. Inc." in the name of  
14 company that Canon, Inc. owns 100 percent interest in  
15 Canon, U.S.A. Inc., correct?

16          A. Yes.

17          Q. Okay. And is it fair to say that Canon, Inc.  
18 is Canon, U.S.A.'s parent company?

19          A. Yes.

20          Q. And who's Canon, U.S.A.'s CEO?

21          A. CEO is Kevin Ogawa.

22          Q. Do you know the Japanese name?

23          A. I'd have to look that up.

24          Q. Do you know if Mr. Ogawa is involved in the  
25 management of Canon, Inc.?

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1 further that I am not financially or otherwise  
2 interested in the outcome of the action.

3 Certified to by me this 18th day of November  
4 2021.

5  
6   
7

JANALYN ELKINS

8 Texas CSR 3631

9 Expiration Date 1/31/2023

Veritext Legal Solutions

Firm Registration No. 571

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